

LASSEN COUNTY AIR POLLUTION CONTROL DISTRICT

**RULE 5:5 EMERGENCY VARIANCES**

**Adopted 10/01/1971, Amended 03/13/2012**

**1. EMERGENCY VARIANCES: Notwithstanding the above, the following specific items apply to Emergency Variances.**

**1.1 Specific Contents of Petition:** An Applicant may file a petition for an Emergency Variance by filing a written petition to the Clerk of the Hearing Board and paying a fee pursuant to DISTRICT Rule 5:11 Fees Relating to Hearing Board Matters. The filing shall explain in detail the grounds for the request, including such information as the foreseeability of the cause of the emergency, whether the Applicant has used good maintenance practices and whether the Applicant's violations are due to conditions beyond its reasonable control. This initial filing does not in itself constitute a variance and provides no assurance of protection from enforcement action.

**1.2 Notice of Hearing:** An Emergency Variance may be granted without notice and hearing or, at the discretion of the Hearing Board, a hearing may be held.

**1.3 Determination of Variance Findings**

1.3.1 When a written notification requesting an Emergency Variance has been received, the Clerk of the Hearing Board shall, as soon as is practicable, schedule a telephone conference call hearing on the application with one member of the Hearing Board.

1.3.2 The Hearing Board member conducting the hearing (Hearing Officer) will call the meeting to order, will obtain the names of persons participating in the hearing for the record and will swear in all persons wishing to provide testimony.

1.3.3 After receiving testimony and other evidence, the Hearing Officer may grant the request based on good cause, or deny the request at that time, may obtain further information orally or in writing from the Applicant or the APCO before acting on the request, or may defer the matter for later consideration by the full Hearing Board. Such hearing shall be held within thirty (30) calendar days.

1.3.4 If the Applicant is not a participant in the hearing, the Applicant will be notified orally by the Hearing Board Clerk of the decision on the request for Emergency Variance. If an Emergency Variance is granted, the Clerk will notify all other Hearing Board members as soon as possible but no later than 48 hours from the time of the decision.

1.3.5 If, within this 48-hour period, any Hearing Officer notifies the Clerk of the Hearing Board that he or she wishes to convene a hearing upon the Emergency Variance so granted, the Clerk, after consultation with the Chairman, shall schedule a hearing within

thirty (30) calendar days and shall notify all Hearing Board members, and Applicant. The purpose of such hearing shall be to review the issuance of the Emergency Variance and to consider whether it should remain in effect as ordered, be modified, or be terminated. Any such modification or termination, however, shall not be retroactive.